

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Pine Belt Cellular, Inc.)

Petition for Designation as an)
Eligible Telecommunications)
Carrier)

CC Docket No. 96-45
FCC 97-419

**PETITION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

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Dated: March 2, 2006

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SUMMARY

Pine Belt Cellular, Inc. ("Pine Belt"), in this Petition for Designation as an Eligible Telecommunications Carrier ("Petition") requests designation as an eligible telecommunications carrier ("ETC") for its rural service areas in Alabama. Pine Belt was granted ETC authority for non-rural portions of its service territory in 2002. Pine Belt is not requesting redefinition of any telephone service areas, and has included a map of the proposed additional ETC service area, and a list of affected wire centers.

The Alabama Public Service Commission lacks jurisdiction to consider Pine Belt's request for ETC authority. Pine Belt meets all statutory and regulatory requirements for ETC designation to serve rural Alabama customers. Pine Belt provides universal service offerings, including voice-grade access to the public switched network, local usage plans, the functional equivalent of touch tone signaling, single party service, access to emergency services, operator services, interexchange service and directory assistance. Pine Belt participates in Lifeline, and offers toll blockings. Pine Belt provides the supported services using its own facilities, advertises its universal service offering, and will use all funds consistent with the rules and policies of the FCC and the Communications Act. Pine Belts commits to provide rural customers with comparable to services provided by other rural carriers, will provide service to requesting customers, and demonstrates in its five year construction plan that it intends to use universal service funds to construct additional facilities and provide improved service offerings to customers in rural Alabama. Pine Belt understands the needs of its market area, and commits to abide by the CTIA Code for Wireless Service. Pine Belt's requested ETC service area includes entire study areas, and grant of ETC authority to Pine Belt will have minimal impact on

the universal fund. Pine Belt commits to submit annual reports to the Commission detailing its compliance with FCC rules and policies.

Pine Belt is a well-qualified applicant, and grant of ETC authority to Pine Belt for its rural service areas will increase competitive choice and quality service option to rural Alabama consumers and is in the public interest. Pine Belt respectfully requests that this Commission grant this Petition.

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Pine Belt Cellular, Inc. ("Pine Belt"), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended ("Act"), and the rules and procedures of the Federal Communication Commission ("FCC" or "Commission"),¹ hereby petitions the Commission to designate Pine Belt as an eligible telecommunications carrier ("ETC") for its rural service areas in Alabama, as depicted in Exhibit 3. The Pine Belt's licensed service area includes the requested areas.² The Alabama Public Service Commission ("APSC") lacks jurisdiction to consider Pine Belt's request for ETC authority,³ and therefore the FCC clearly has jurisdiction under Section 214(e)(6) to consider and grant this petition. Pine Belt is not requesting any redefinition of telephone service areas. Pine Belt meets all the statutory and regulatory requirements for ETC designation to serve rural Alabama customers. As demonstrated in this

¹ A certification that Pine Belt meets the criteria for ETC status and complies with the Anti-Drug Abuse Act is attached to this Petition as Exhibit 1.

² Pine Belt's service area map appears on Exhibit 3. Pine Belt previously was granted authority to serve the non-rural portions of its Alabama territory by order released May 24, 2002, DA 02-12552.

³ See *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, Alabama PSC Docket U-4440, March 12, 2002, attached as Exhibit 2.

petition, the designation of Pine Belt as an ETC for the requested service territory will serve the public interest.

I. PINE BELT PROVIDES UNIVERSAL SERVICE OFFERINGS

Pine Belt is a commercial mobile radio service provider ("CMRS"), licensed by the Commission to provide services in Alabama Rural Service Area 3B2 for cellular services and the Selma basic trading area (FCC Market B415) for personal communications services.⁴ Pine Belt is affiliated with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama.

Pine Belt seeks designation as an eligible telecommunications carrier to provide wireless service in the Alabama wireline exchange areas listed in Exhibit 3. Pine Belt seeks ETC designation to expand its telecommunications offerings to consumers within its authorized wireless service areas. Pine Belt provides all of the services and functionalities supported by the federal universal service program, enumerated in Section 54.101(a) of the Commission's rules, throughout its service area in Alabama. Upon ETC designation, Pine Belt will make available to consumers a universal service offering over its existing networks infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its customers. Pine Belt also will provide service to any requesting customer within the designated service areas, and if necessary will deploy any additional facilities necessary to do so.

⁴ The requested service areas are shown in Exhibit 3.

II. PINE BELT SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Pine Belt satisfies the necessary elements to be designated as an ETC by the Commission, as detailed below.

A. Pine Belt is not Subject to the Jurisdiction of the Alabama Public Service Commission ("APSC")

Pine Belt provides commercial mobile radio service ("CMRS"), and the Commission has previously recognized that a CMRS provider may seek designation as an ETC.⁵ Section 332(c)(3) of the Act precludes rate and entry regulation of CMRS providers by state public utility commissions.⁶ This Commission has jurisdiction, under Section 214(e)(6), to designate CMRS providers as ETCs.

Consistent with the foregoing, the APSC, in an order attached to this Petition as Exhibit 2, has concluded that Pine Belt is not subject to state jurisdiction in Alabama and therefore must seek ETC designation from the FCC pursuant to Section 214(e)(6).

B. Pine Belt Offers all of the Services Supported by the Federal High-Cost Universal Service Program

Pine Belt satisfies the FCC's requirements that an ETC designated pursuant to Section 214(e)(6) "offer, or will be able to offer all of the services designated for support by the Commission."⁷ As described below, Pine Belt currently offers each of the supported services

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd. 8776, 8858-59, ¶ 145 (1997) ("Universal Service First Report and Order"); *Federal-State Joint Board on Universal Service, Access Charge Reform*, Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, FCC 99-119 at ¶ 72 (released May 28, 1999).

⁶ 47 U.S.C. § 332(c)(3). See also *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, FCC 99-204, ¶¶ 78, 82 (released September 3, 1999) (suggesting that FCC may designate CMRS providers as ETCs under 47 U.S.C. 214(e)(6) and 332(c)(3)).

⁷ *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 13 FCC Rcd. 4547, 4553, ¶ 11 (CCB 1998) ("Fort

described in Section 54.101(a) of the Commission's rules.⁸ Pine Belt will make available a universal service offering that includes all of the supported services for consumers in the designated service areas in Alabama.

1. Voice-Grade Access to the Public Switched Network. As an existing CMRS service provider in Alabama, Pine Belt provides voice-grade access to the public switched network. Through interconnection agreements with incumbent carriers Pine Belt is able to originate and terminate telephone service for all of its subscribers.

2. Local Usage. Pine Belt will offer throughout its service areas several service options that include local usage in monthly service plans. Pine Belt will offer its universal service customers a rate plan that includes unlimited local usage. Pine Belt will comply with ETC designation requirements by offering such unlimited local usage calling plans.

3. Functional Equivalent of Touch-Tone ("DTMF") Signaling. Pine Belt currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling. Pine Belt therefore meets the requirement to provide DTMF signaling or its functional equivalent.⁹

4. Single Party Service. Pine Belt meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.¹⁰

5. Access to Emergency Service. Pine Belt currently offers access to emergency service throughout its cellular service area by dialing 911. Enhanced 911 ("E911"), which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is required only if a public emergency service provider

Mojave"). A declaration attesting to Pine Belt's ability and commitment to offer each of the supported services is attached hereto at Exhibit 1.

⁸ 47 C.F.R. § 54.101(a).

⁹ *Universal Service First Report and Order*, 12 FCC Rcd. at 8815, ¶ 71 (1997).

¹⁰ *Id.* at 8810, ¶ 62.

makes arrangements for the delivery of such information.¹¹ Pine Belt has completed Phase I E911 implementation in all jurisdictions that have requested it (four of the five counties served by Pine Belt). No public emergency service provider in Pine Belt's service territory has requested Phase II compliance. The Commission has already held that wireless providers may be designated as ETCs despite the current unavailability of E911.¹² By providing 911 service and being capable and ready to provide E911 service upon request, Pine Belt meets the requirement to provide access to emergency service.

6. Access to Operator Services. Pine Belt offers its subscribers access to operator services and will make such services available throughout its designated service area.

7. Access to Interexchange Service. Pine Belt provides all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with an interexchange carrier. Pine Belt acknowledges that it may be required to provide equal access to interexchange carriers in its designated service area if no other ETC is providing equal access within the service area.

8. Access to Directory Assistance. Pine Belt meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."

9. Toll Limitation for Qualifying Low-Income Customers. Pine Belt participates in Lifeline, and offers toll blocking in satisfaction of the FCC's requirement. Pine Belt provides toll blocking services for international calls and customer selected toll calls, and Pine Belt uses the same toll blocking technology to provide toll limitation for qualifying low-income customers, at no charge, as part of its universal service offerings.

¹¹ *Id.* at 8826-27, ¶ 90.

¹² *Id.*

C. Pine Belt Provides the Supported Services Using its Own Facilities

Pine Belt provides the supported services under Section 214(e)(1)(A) of the Act and Section 54.101(a) of the Commission's rules using Pine Belt's existing network infrastructure, consisting of switching, trunking, cell sites, and network equipment, together with any expansions and enhancements to that network. Pine Belt has the technical capability to maintain its facilities during emergency situations.

D. Pine Belt Will Advertise its Universal Service Offering

Pine Belt advertises the availability of its universal service offering, and the charges for the offering, using media of general distribution. Currently, Pine Belt employs a variety of advertising media to promote its service offerings, including television, radio and newspaper advertising, and its website. Pine Belt's advertising plan is designed to fully inform consumers within its designated service area of its universal service offering. Pine Belt also will provide notice of its service offering in local unemployment, social security and welfare offices. It will publicize construction of new facilities in unserved or underserved areas.

E. Additional Commitments and Certifications

1. All Federal High Cost Support shall be used consistent with the Act. Pine Belt certifies that, consistent with 54.314 of the Commission's rules, all federal high cost support will be used solely for the provision, maintenance and upgrading of facilities and services for which support is intended pursuant to Section 254(e) of the Act.

2. Commitment to Provide Service to Rural Customers. Pine Belt commits that it will provide Alabama rural customers with services comparable to services provided in rural areas by other telecommunications carriers in those areas.

3. Commitment to Provide Service to Requesting Customers. When Pine Belt receives requests for service from residents and businesses in the designated service area,

Pine Belt will provide service promptly, where available. If Pine Belt receives a request from a potential customer within its licensed service area but outside existing network coverage, Pine Belt will evaluate all feasible means of providing services, including adjustments to network facilities, modification of customer equipment or construction of additional facilities, or provision of resold services. If after evaluating all feasible options, Pine Belt cannot meet a request for service, Pine Belt will notify the requesting party, and the Commission within 30 days of making such a determination. Pine Belt will provide the Commission with an annual report of how many, if any, requests for service were unfulfilled during the year. Pine Belt acknowledges the Commission's authority to review any complaints that may arise from any potential service provisioning disputes. Pine Belt commits to be responsive to requests for service, and diligent in its efforts to meet the needs of customers and potential customers. Pine Belt commits to using universal support funds in an appropriate manner to provide service to customers in rural Alabama.

4. Commitment to Upgrade Facilities and Technology. Pine Belt has developed a five-year network improvement plan submitted as Exhibit 4. This plan details plans for network improvements on a year-by-year basis for the next five years, and demonstrates how Pine Belt will use universal service funds to improve coverage, signal strength, and capacity of its network.

5. Commitment to Improve Quality of Service. Pine Belt understands the needs of its market area, and will provide quality services to its customers in Alabama. Pine Belt commits to abide by the CTIA Code for Wireless Service for its service territory.

6. Provision of Service During Emergencies. Pine Belt has reasonable back-up power sufficient to provide service during power outages and other emergencies. Pine Belt

also can re-route traffic, if necessary to deal with outages, damaged facilities and high network traffic.

7. Requested Service Areas Include Entire Study Areas. Pine Belt seeks designation as an eligible telecommunications carrier to provide wireless service in the Alabama wireline exchange areas listed in Exhibit 3. This service territory includes rural areas served by incumbent telephone company affiliate Pine Belt Telephone Company, and other rural incumbent telephone company service territories depicted on the map and wire service chart included in Exhibit 3. Pine Belt requests ETC authority for the entire study areas listed on Exhibit 3. No service area redefinition is requested, and Pine Belt will not “creamskim” any rural areas, because Pine Belt intends to serve the entire requested rural areas.

8. Submission of Reports. Pine Belt will submit to the Commission reports on an annual basis, including (i) progress reports regarding its build-out plans; (ii) information about any outage lasting longer than 30 minutes and potentially affecting either its 911 facilities or at least 10 percent of the end users served; (iii) the number of requests for service from potential customers within Pine Belt’s service area that were unfulfilled for the past year; (iv) the number of consumer complaints per 1000 handsets in service; (v) information about compliance with the CTIA Consumer Code; (vi) certification that it is offering a local usage plan comparable to the local incumbent carriers; (vii) information about its provision of emergency service; and (viii) acknowledgement that the Commission may require it to provide equal access to long distance carriers if no other ETC in the area is providing equal access in the service territory.

9. Minimal Impact on the Universal Service Fund. As Pine Belt demonstrates in Exhibit 5, the Commission’s grant of ETC authority to Pine Belt for its rural service area will have minimal impact on the universal service fund in Alabama.

III. DESIGNATING PINE BELT AS AN ETC IS IN THE PUBLIC INTEREST

The designation of Pine Belt as ETC for the requested rural service territory clearly is in the public interest. Pine Belt demonstrates in this Petition, in accordance Commission rules and policies, and consistent with the public interest analysis set forth in the Commission's *Virginia Cellular* decision,¹³ that grant of Pine Belt's request will increase competitive choice in the designated rural Alabama service area; will have minimal impact on the universal service fund; and will provide quality services in an expeditious fashion to consumers in rural Alabama.

IV. ANTI-DRUG ABUSE CERTIFICATION

Pine Belt certifies that no party to this Petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.¹⁴

¹³ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, 19 FCC Rcd 1563 (2004) ("*Virginia Cellular*").

¹⁴ 21 U.S.C. § 862. See attached Certification at Exhibit 1.

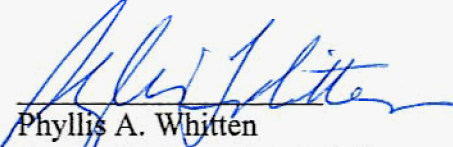
V. CONCLUSION

For the foregoing reasons Pine Belt respectfully requests ETC designation for the requested rural service territories in Alabama.

Respectfully Submitted,

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Date: March 2, 2006

EXHIBITS

Exhibit 1

Declaration of John C. Nettles

Exhibit 2

Order of the Alabama Public Service Commission

Exhibit 3

Map of Proposed Pine Belt ETC Service Territory and List of Wire Centers

Exhibit 4

Maps and Chart of Five-Year Construction Plan
(Confidential, Not for Public Inspection)

Exhibit 5

USF Fund Impact Analysis

Exhibit 6

CTIA Code for Wireless Service

CERTIFICATE OF SERVICE

I, Phyllis A. Whitten, hereby certify that on this 2nd day of March 2006, copies of the foregoing Petition for Designation as an Eligible Telecommunications Carrier were delivered via hand delivery to the parties marked with an asterisk, and by United States Postal Service First Class Mail to the following:


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